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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,115	08/01/2000	Gregory I. Bohach	12136.1USWO	4351

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Merchant & Gould
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EXAMINER

NAVARRO, ALBERT MARK

ART UNIT PAPER NUMBER

1645

DATE MAILED: 12/19/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	9

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application

Commissioner of Patents

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

Applicant is given ONE MONTH, or THIRTY DAYS, whichever is longer, from the mailing date of this letter within which to comply with the sequence rules, 37 CFR 1.821 - 1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). In no case may an applicant extend the period for reply beyond the SIX MONTH statutory period. Direct the reply to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the reply.

Mark Navarro

Primary Examiner

December 14, 2001

Art Unit: 1645

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-22 and 25-26, drawn to modified toxins.

Group II, claim(s) 23-24, drawn to nucleic acids.

Additionally Groups I and II are further restricted according to MPEP 803.04 which sets forth that biological molecules with different sequences are separate inventions. Accordingly, Groups I and II are further restricted to a type A, B, C, D, E, G, or H, Staphylococcal enterotoxin, Streptococcal pyrogenic exotoxin A, Streptococcal superantigen, Staphylococcal enterotoxin C1, Staphylococcal enterotoxin C2, Staphylococcal enterotoxin C-MNCPeland, Staphylococcal enterotoxin C-4446, Staphylococcal enterotoxin C-bovine, Staphylococcal enterotoxin C-canine or Staphylococcal enterotoxin C-ovine.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: .

Art Unit: 1645

Groups I and II are directed to different inventions which are not so linked to form a single inventive concept. The unique special technical feature of Group I, corresponding to the recited polypeptide differs from the unique special technical feature of Group II, which is drawn to DNA. The DNA and polypeptide are products with different structure, and different biological properties. The polypeptides are made of amino acids, whereas the claimed DNA is made of nucleotides. Furthermore, methods known in the art used to make the polypeptide require different reagents, and parameters from the methods of making DNA encoding the protein. Additionally, the method of making the polypeptide does not require the DNA.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Navarro whose telephone number is (703) 306-3225.



Mark Navarro

Primary Examiner

December 14, 2001

Application No.: 09/555,115

**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING
NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s)

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- ☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☐ 7. Other: _____

Applicant Must Provide:

- ☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

For PatentIn software help, call (703) 308-6856

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